

HOUSE BILL No. 1632

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8-8.

Synopsis: 1977 fund retirement benefits. Provides that a member of the 1977 police officers' and firefighters' pension and disability fund who has completed 20 years of service may retire at 50 years of age, instead of 52 years of age. Eliminates the 1977 fund member's election to retire with actuarially reduced benefits. Increases the percentages that apply when calculating a benefit for a 1977 fund member with more than 20 years of service.

Effective: July 1, 2005.

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January 19, 2005, read first time and referred to Committee on Public Safety and Homeland Security.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1632

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-8-8-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A fund member
3 is eligible for retirement after ~~he the member~~ has completed twenty
4 (20) years of active service.
5 (b) ~~Unless the member is receiving benefits under subsection (c);~~
6 ~~unreduced~~ Benefits to a retired fund member begin the date:
7 (1) the fund member becomes ~~fifty-two (52)~~ **fifty (50)** years of
8 age; or
9 (2) on which the fund member retires;
10 whichever is later. Benefit payments to a retired fund member under
11 this subsection begin on the first day of the month on or after the date
12 ~~he reaches fifty-two (52)~~ **the member becomes fifty (50)** years of age
13 or on which ~~he the member~~ retires, whichever is later.
14 (c) ~~A retired member may elect to receive actuarially reduced~~
15 ~~benefits that begin the date:~~
16 (1) the fund member becomes **fifty (50)** years of age; or
17 (2) on which the fund member retires;

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1 whichever is later. Benefit payments to a retired fund member under
 2 this subsection begin on the first day of the month on or after the day
 3 the member reaches fifty (50) years of age or on which the member
 4 retires; whichever is later.

5 (d) (e) If a fund member:

6 (1) becomes ~~fifty-two (52)~~ years of age in the case of unreduced
 7 benefits or fifty (50) years of age; in the case of reduced benefits;

8 or

9 (2) retires;

10 on a date other than on the first day of the month, the amount due the
 11 fund member for the initial partial monthly benefit is payable together
 12 with the regular monthly benefit on the first of the month following the
 13 date the fund member becomes ~~fifty-two (52)~~ or fifty (50) years of age
 14 respectively, or retires, whichever is later.

15 SECTION 2. IC 36-8-8-11 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) Benefits paid
 17 under this section are subject to section 2.5 of this chapter.

18 (b) Each fund member who qualifies for a retirement benefit
 19 payment under section 10(b) of this chapter is entitled to receive a
 20 monthly benefit equal to fifty percent (50%) of the monthly salary of
 21 a first class patrolman or firefighter in the year the member ended his
 22 the member's active service plus:

23 (1) for a member who retires before January 1, 1986, two and
 24 one-half percent (~~2%~~) (2.5%) of that salary for each full year of
 25 active service; or

26 (2) for a member who retires after December 31, 1985, one and
 27 one-quarter percent (~~1%~~) (1.25%) of that salary for each six (6)
 28 months of active service;

29 over twenty (20) years, to a maximum of twelve (12) years.

30 (c) Each fund member who qualifies for a retirement benefit
 31 payment under section 10(c) of this chapter is entitled to receive a
 32 monthly benefit equal to fifty percent (50%) of the monthly salary of
 33 a first class patrolman or firefighter in the year the member ended his
 34 active service plus one percent (1%) of that salary for each six (6)
 35 months of active service over twenty (20) years; to a maximum of
 36 twelve (12) years; all actuarially reduced for each month (if any) of
 37 benefit payments prior to fifty-two (52) years of age; by a factor
 38 established by the fund's actuary from time to time.

39 SECTION 3. IC 36-8-8-12 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Benefits paid
 41 under this section are subject to sections 2.5 and 2.6 of this chapter.

42 (b) If an active fund member has a covered impairment, as

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determined under sections 12.3 through 13.1 of this chapter, the member is entitled to receive the benefit prescribed by section 13.3 or 13.5 of this chapter. A member who has had a covered impairment and returns to active duty with the department shall not be treated as a new applicant seeking to become a member of the 1977 fund.

(c) If a retired fund member who has not yet reached the member's ~~fifty-second~~ **fiftieth** birthday is found by the PERF board to be permanently or temporarily unable to perform all suitable work for which the member is or may be capable of becoming qualified, the member is entitled to receive during the disability the retirement benefit payments payable at ~~fifty-two (52)~~ **fifty (50)** years of age. During a reasonable period in which a disabled fund member is becoming qualified for suitable work, the member may continue to receive disability benefit payments. However, benefits payable for disability under this subsection are reduced by amounts for which the fund member is eligible from:

- (1) a plan or policy of insurance providing benefits for loss of time because of disability;
- (2) a plan, fund, or other arrangement to which the fund member's employer has contributed or for which the fund member's employer has made payroll deductions, including a group life policy providing installment payments for disability, a group annuity contract, or a pension or retirement annuity plan other than the fund established by this chapter;
- (3) the federal Social Security Act (42 U.S.C. 401 et seq.), the Railroad Retirement Act (45 U.S.C. 231 et seq.), the United States Department of Veterans Affairs, or another federal, state, local, or other governmental agency;
- (4) worker's compensation payable under IC 22-3; and
- (5) a salary or wage, including overtime and bonus pay and extra or additional remuneration of any kind, the fund member receives or is entitled to receive from the member's employer.

For the purposes of this subsection, a retired fund member is considered eligible for benefits from subdivisions (1) through (5) whether or not the member has made application for the benefits.

(d) Notwithstanding any other law, a plan, policy of insurance, fund, or other arrangement:

- (1) delivered, issued for delivery, amended, or renewed after April 9, 1979; and
- (2) described in subsection (c)(1) or (c)(2);

may not provide for a reduction or alteration of benefits as a result of benefits for which a fund member may be eligible from the 1977 fund

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1 under subsection (c).

2 (e) Time spent receiving disability benefits is considered active
3 service for the purpose of determining retirement benefits until the
4 fund member has a total of twenty (20) years of service.

5 (f) A fund member who is receiving disability benefits under this
6 chapter shall be transferred from disability to regular retirement status
7 when the member becomes ~~fifty-five (55)~~ **fifty (50)** years of age.

8 SECTION 4. IC 36-8-8-13.3 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.3. (a) This section
10 applies only to a fund member who:

- 11 (1) is hired for the first time before January 1, 1990; and
12 (2) does not choose coverage by sections 12.5 and 13.5 of this
13 chapter under section 12.4 of this chapter.

14 This section does not apply to a fund member described in section
15 12.3(c)(2) of this chapter.

16 (b) A fund member:

- 17 (1) who became disabled before July 1, 2000;
18 (2) **who** is determined to have a covered impairment; and
19 (3) for whom it is determined that there is no suitable and
20 available work within the fund member's department, considering
21 reasonable accommodation to the extent required by the
22 Americans with Disabilities Act;

23 is entitled to receive during the disability a benefit equal to the benefit
24 that the fund member would have received if the fund member had
25 retired. If the disabled fund member does not have at least twenty (20)
26 years of service or is not at least ~~fifty-two (52)~~ **fifty (50)** years of age,
27 the benefit is computed and paid as if the fund member had twenty (20)
28 years of service and was ~~fifty-two (52)~~ **fifty (50)** years of age.

29 (c) Except as otherwise provided in this subsection, a fund member:

- 30 (1) who becomes disabled after July 1, 2000;
31 (2) who is determined to have a covered impairment that is:
32 (A) the direct result of:
33 (i) a personal injury that occurs while the fund member is on
34 duty;
35 (ii) a personal injury that occurs while the fund member is
36 off duty and is responding to an offense or a reported
37 offense, in the case of a police officer, or an emergency or
38 reported emergency for which the fund member is trained,
39 in the case of a firefighter; or
40 (iii) an occupational disease (as defined in IC 22-3-7-10),
41 including a duty related disease that is also included within
42 clause (B); or

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(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); and

(3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the disabled fund member does not have at least twenty (20) years of service or is not at least ~~fifty-two (52)~~ **fifty (50)** years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was ~~fifty-two (52)~~ **fifty (50)** years of age.

(d) Except as otherwise provided in this subsection, a fund member:

(1) who becomes disabled after July 1, 2000;

(2) who is determined to have a covered impairment that is not a covered impairment described in subsection (c)(2)(A) or (c)(2)(B); and

(3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the federal Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the disabled fund member does not have at least twenty (20) years of service or is not at least ~~fifty-two (52)~~ **fifty (50)** years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was ~~fifty-two (52)~~ **fifty (50)** years of age.

(e) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;

(2) recovers and returns to active service with the department; and

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(3) within two (2) years after returning to active service has an impairment that except for section 12.3 of this chapter would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 5. IC 36-8-8-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.5. (a) This section applies only to a fund member who:

- (1) is hired for the first time after December 31, 1989;
- (2) chooses coverage by this section and section 12.5 of this chapter under section 12.4 of this chapter; or
- (3) is described in section 12.3(c)(2) of this chapter.

(b) A fund member who is determined to have a Class 1 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment.

(c) A fund member who is determined to have a Class 2 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to twenty-two percent (22%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment plus one-half percent (0.5%) of that salary for each year of service, up to a maximum of thirty (30) years of service.

(d) For applicants hired before March 2, 1992, a fund member who is determined to have a Class 3 impairment and for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, is entitled to a monthly base benefit equal to the product of the member's years of service (not to exceed thirty (30) years of service) multiplied by one percent (1%) of the monthly salary of a first class patrolman or

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1 firefighter in the year of the local board's determination of impairment.

2 (e) For applicants hired after March 1, 1992, or described in section
3 12.3(c)(2) of this chapter, a fund member who is determined to have a
4 Class 3 impairment and for whom it is determined that there is no
5 suitable and available work within the fund member's department,
6 considering reasonable accommodation to the extent required by the
7 Americans with Disabilities Act, is entitled to the following benefits
8 instead of benefits provided under subsection (d):

9 (1) If the fund member did not have a Class 3 excludable
10 condition under section 13.6 of this chapter at the time the fund
11 member entered or reentered the fund, the fund member is
12 entitled to a monthly base benefit equal to the product of the
13 member's years of service, not to exceed thirty (30) years of
14 service, multiplied by one percent (1%) of the monthly salary of
15 a first class patrolman or firefighter in the year of the local board's
16 determination of impairment.

17 (2) Except as provided in subdivision (5), a fund member is
18 entitled to receive the benefits set forth in subdivision (1) if:

19 (A) the fund member had a Class 3 excludable condition under
20 section 13.6 of this chapter at the time the fund member
21 entered or reentered the fund;

22 (B) the fund member has a Class 3 impairment that is not
23 related in any manner to the Class 3 excludable condition
24 described in clause (A); and

25 (C) the Class 3 impairment described in clause (B) occurs after
26 the fund member has completed four (4) years of service with
27 the employer after the date the fund member entered or
28 reentered the fund.

29 (3) Except as provided in subdivision (5), a fund member is not
30 entitled to a monthly base benefit for a Class 3 impairment if:

31 (A) the fund member had a Class 3 excludable condition under
32 section 13.6 of this chapter at the time the fund member
33 entered or reentered the fund; and

34 (B) the Class 3 impairment occurs before the fund member has
35 completed four (4) years of service with the employer after the
36 date the fund member entered or reentered the fund.

37 (4) A fund member is not entitled to a monthly base benefit for a
38 Class 3 impairment if:

39 (A) the fund member had a Class 3 excludable condition under
40 section 13.6 of this chapter at the time the fund member
41 entered or reentered the fund; and

42 (B) the Class 3 impairment is related in any manner to the

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Class 3 excludable condition.

(5) If, during the first four (4) years of service with the employer:

(A) a fund member with a Class 3 excludable condition is determined to have a Class 3 impairment; and

(B) the Class 3 impairment is attributable to an accidental injury that is not related in any manner to the fund member's Class 3 excludable condition;

the member is entitled to receive the benefits provided in subdivision (1) with respect to the accidental injury. For purposes of this subdivision, the local board shall make the initial determination of whether an impairment is attributable to an accidental injury. The local board shall forward the initial determination to the director of the PERF board for a final determination by the PERF board or the PERF board's designee.

(f) If a fund member is entitled to a monthly base benefit under subsection (b), (c), (d), or (e), the fund member is also entitled to a monthly amount that is no less than ten percent (10%) and no greater than forty-five percent (45%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment. The additional monthly amount shall be determined by the PERF medical authority based on the degree of impairment.

(g) Benefits for a Class 1 impairment are payable until the fund member becomes ~~fifty-two (52)~~ **fifty (50)** years of age. Benefits for a Class 2 and a Class 3 impairment are payable:

(1) for a period equal to the years of service of the member, if the member's total disability benefit is less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment and the member has fewer than four (4) years of service; or

(2) until the member becomes ~~fifty-two (52)~~ **fifty (50)** years of age if the member's benefit is:

(A) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or

(B) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service.

(h) Upon becoming ~~fifty-two (52)~~ **fifty (50)** years of age, a fund member with a Class 1 or Class 2 impairment is entitled to receive the retirement benefit payable to a fund member with:

(1) twenty (20) years of service; or

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(2) the total years of service and salary, as of the year the member becomes ~~fifty-two (52)~~ **fifty (50)** years of age, that the fund member would have earned if the fund member had remained in active service until becoming ~~fifty-two (52)~~ **fifty (50)** years of age;
 whichever is greater.

(i) Upon becoming ~~fifty-two (52)~~ **fifty (50)** years of age, a fund member who is receiving or has received a Class 3 impairment benefit that is:

(1) equal to or greater than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment; or
 (2) less than thirty percent (30%) of the monthly salary of a first class patrolman or firefighter in the year of the local board's determination of impairment if the member has at least four (4) years of service;
 is entitled to receive the retirement benefit payable to a fund member with twenty (20) years of service.

(j) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

(1) has had a covered impairment;
 (2) recovers and returns to active service with the department; and
 (3) within two (2) years after returning to active service has an impairment that, except for section 12.3(b)(3) of this chapter, would be a covered impairment;

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 6. IC 36-8-8-13.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.8. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter) after August 31, 1982.

(b) If a fund member dies while receiving retirement or disability benefits, the following apply:

(1) Except as otherwise provided in this subsection, each of the member's surviving children is entitled to a monthly benefit equal

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to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child becomes eighteen (18) years of age; or

(B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If a fund member dies while receiving retirement or disability benefits, there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(c) Except as otherwise provided in this subsection, if a fund member dies while on active duty or while retired and not receiving benefits, the member's children and the member's spouse, or the member's parent or parents are entitled to receive a monthly benefit determined under subsection (b). If the fund member did not have at least twenty (20) years of service or was not at least ~~fifty-two (52)~~ **fifty (50)** years of age, the benefit is computed as if the member:

(1) did have twenty (20) years of service; and

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(2) was ~~fifty-two (52)~~ **fifty (50)** years of age.

SECTION 7. IC 36-8-8-13.9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13.9. (a) This section applies to an active member who died in the line of duty (as defined in section 14.1 of this chapter) before September 1, 1982.

(b) Except as otherwise provided in this subsection, if a fund member dies in the line of duty, the following apply:

(1) Each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child becomes eighteen (18) years of age; or

(B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

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(c) If the fund member did not have at least twenty (20) years of service or was not at least ~~fifty-two (52)~~ **fifty (50)** years of age, the benefit under subsection (b) is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was ~~fifty-two (52)~~ **fifty (50)** years of age.

(d) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

SECTION 8. IC 36-8-8-14.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at ~~fifty-two (52)~~ **fifty (50)** years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) If a fund member dies in the line of duty, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(1) until the child reaches eighteen (18) years of age; or

(2) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or

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is a full-time student at an accredited college or university; whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(e) If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(f) If the fund member did not have at least twenty (20) years of service or was not at least ~~fifty-two (52)~~ **fifty (50)** years old, the benefit is computed as if the member:

- (1) did have twenty (20) years of service; and
- (2) was ~~fifty-two (52)~~ **fifty (50)** years of age.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from:

- (1) any action that the member, in the member's capacity as a police officer:

- (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (B) performs in the course of controlling or reducing crime or enforcing the criminal law; or

- (2) any action that the member, in the member's capacity as a firefighter:

- (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (B) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under

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1 IC 5-10-13.

2 (h) The unit of local government that employed the deceased
3 member shall after December 31, 2003, offer to provide and pay for
4 health insurance coverage for the member's surviving spouse and for
5 each natural child, stepchild, or adopted child of the member:

- 6 (1) until the child becomes eighteen (18) years of age;
7 (2) until the child becomes twenty-three (23) years of age if the
8 child is enrolled in and regularly attending a secondary school or
9 is a full-time student at an accredited college or university; or
10 (3) during the entire period of the child's physical or mental
11 disability;

12 whichever period is longest. If health insurance coverage is offered by
13 the unit to active members, the health insurance provided to a surviving
14 spouse and child under this subsection must be equal in coverage to
15 that offered to active members. The offer to provide and pay for health
16 insurance coverage shall remain open for as long as there is a surviving
17 spouse or as long as a natural child, stepchild, or adopted child of the
18 member is eligible for coverage under subdivision (1), (2), or (3).

19 **SECTION 9. [EFFECTIVE JULY 1, 2005] This act applies to all**
20 **benefits paid after June 30, 2005, under IC 36-8-8-10, IC 36-8-8-11,**
21 **IC 36-8-8-12, IC 36-8-8-13.3, IC 36-8-8-13.5, IC 36-8-8-13.8,**
22 **IC 36-8-8-13.9, or IC 36-8-8-14.1, all as amended by this act, but**
23 **does not require the board of trustees of the public employees'**
24 **retirement fund to recompute any benefits that were paid under**
25 **IC 36-8-8 before July 1, 2005.**

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